

# SENATE BILL No. 91

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 31-9-2; IC 31-28-5; IC 34-30-2-133.

**Synopsis:** Foster care sibling visitation. Requires the department of child services (DCS) to promote sibling visitation for every child who receives foster care. Allows a sibling to request sibling visitation if one of the siblings is receiving foster care. Requires DCS to allow sibling visitation if it is in the best interests of the child receiving foster care. Provides that if DCS denies a request for sibling visitation, an individual may petition a juvenile court for sibling visitation. Requires a court to grant sibling visitation if the court determines sibling visitation is in the best interests of the child who receives foster care. Permits a court to appoint a guardian ad litem or a court appointed special advocate if a child requesting sibling visitation is receiving foster care. Provides that a guardian ad litem or court appointed special advocate appointed in a sibling visitation case is immune from civil liability, except for gross misconduct. (The introduced version of this bill was prepared by the interim study committee on missing children.)

**Effective:** July 1, 2008.

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**Delph, Becker, Howard, Skinner,  
Sipes, Waterman**

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January 8, 2008, read first time and referred to Committee on Judiciary.

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Introduced

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

## SENATE BILL No. 91

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A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 31-9-2-28 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 28. "Court appointed  
3 special advocate", for purposes of IC 31-15-6, IC 31-17-6, IC 31-19-16,  
4 IC 31-19-16.5, **IC 31-28-5**, and the juvenile law, means a community  
5 volunteer who:

6 (1) has completed a training program approved by the court;  
7 (2) has been appointed by a court to represent and protect the best  
8 interests of a child; and  
9 (3) may research, examine, advocate, facilitate, and monitor a  
10 child's situation.

11 SECTION 2. IC 31-9-2-50 IS AMENDED TO READ AS  
12 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 50. "Guardian ad  
13 litem", for purposes of IC 31-15-6, IC 31-16-3, IC 31-19-16,  
14 IC 31-19-16.5, **IC 31-28-5**, and the juvenile law, means an attorney, a  
15 volunteer, or an employee of a county program designated under  
16 IC 33-24-6-4 who is appointed by a court to:

17 (1) represent and protect the best interests of a child; and

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(2) provide the child with services requested by the court, including:

- (A) researching;
- (B) examining;
- (C) advocating;
- (D) facilitating; and
- (E) monitoring;

the child's situation.

A guardian ad litem who is not an attorney must complete the same court approved training program that is required for a court appointed special advocate under section 28 of this chapter.

SECTION 3. IC 31-9-2-117.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 117.3. "Sibling", for purposes of IC 31-28-5, means a brother or sister by blood, half-blood, or adoption.**

SECTION 4. IC 31-28-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

#### **Chapter 5. Foster Care Sibling Visitation**

##### **Sec. 1. This chapter applies to:**

- (1) a child who receives foster care that is funded by the department or a county office; and
- (2) a sibling of a child described in subdivision (1).

**Sec. 2. The department shall make reasonable efforts to promote sibling visitation for every child who receives foster care, including visitation when one (1) sibling receives foster care and another sibling does not.**

**Sec. 3. A child may request the department to permit the child to have visitation with the child's sibling if the child or the child's sibling, or both, receive foster care. If the department finds that the sibling visitation is in the best interests of each child who receives foster care, the department shall permit the sibling visitation and establish a sibling visitation schedule.**

**Sec. 4. (a) If the department denies a request for sibling visitation under section 3 of this chapter, any individual may petition the juvenile court with jurisdiction in the county in which the child receiving foster care is located for an order requiring sibling visitation.**

**(b) If the juvenile court determines it is in the best interests of the child receiving foster care to have sibling visitation, the juvenile court shall order sibling visitation and establish a schedule for the**

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1 sibling visitation.

2 Sec. 5. (a) The juvenile court may appoint a guardian ad litem  
3 or court appointed special advocate if a child receiving foster care  
4 requests sibling visitation.

5 (b) A guardian ad litem or court appointed special advocate  
6 shall represent and protect the best interests of the child.

7 (c) A guardian ad litem or court appointed special advocate  
8 serves until the court enters an order for removal.

9 (d) A guardian ad litem or court appointed special advocate, or  
10 both, are considered officers of the court for the purpose of  
11 representing the child's interests.

12 (e) A guardian ad litem or court appointed special advocate may  
13 be represented by an attorney. If necessary to protect the child's  
14 interests, the court may appoint an attorney to represent the  
15 guardian ad litem or court appointed special advocate.

16 (f) A guardian ad litem or court appointed special advocate  
17 appointed by a court under this chapter may subpoena witnesses  
18 and present evidence regarding sibling visitation.

19 (g) Except for gross misconduct:

20 (1) a guardian ad litem;

21 (2) a court appointed special advocate;

22 (3) an employee of a county guardian ad litem or court  
23 appointed special advocate program; or

24 (4) a volunteer for a guardian ad litem or court appointed  
25 special advocate program;

26 who performs duties in good faith is immune from any civil  
27 liability that occurs as a result of the person's performance.

28 SECTION 5. IC 34-30-2-133 IS AMENDED TO READ AS  
29 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 133. IC 31-15-6-8,  
30 IC 31-17-6-8, **IC 31-28-5-5**, and IC 31-32-3-10 (Concerning a person  
31 acting as guardian ad litem or court appointed special advocate).

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